

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BRENDA COMEAU, et al.,)	
Plaintiffs)	
)	
v.)	Civil Action No. 05-11088-JLT
)	
)	
O'CHARLEY'S, INC., et al.,)	
Defendants)	

ORDER WITH RESPECT TO MEDIATION

January 9, 2007

NEIMAN, C.M.J.

The parties are hereby notified that the court has scheduled a mediation conference at 10:00 a.m. on January 29, 2007, in Courtroom Three, United States District Court, 1550 Main Street, Springfield, Massachusetts. Counsel are directed to be present with their respective clients or representatives thereof without limitation on their authority to negotiate and commit to settlement terms that, in their discretion, may be acceptable. It shall be understood that all parties and counsel will participate in the conference in good faith and with the interest of settling the matter on mutually acceptable terms. It shall be understood as well that all parties, counsel and other persons who participate will keep confidential all communications exchanged during the conference.

By no later than January 25, 2007, each party shall provide the court under a seal a confidential settlement memorandum of no more than four pages addressing with candor the following points:

1. A brief analysis of the key issues involved in the litigation, including a

specific breakdown of the claimed damages.

2. A description of the strongest and weakest legal and factual points in the party's case.
3. A description of the strongest and weakest legal and factual points in the opponent's case.
4. The status of settlement negotiations, including the last settlement proposal made by each side. In this regard, counsel are directed to confer with their clients in advance of the mediation conference to explore the party's settlement position, and the parties are encouraged to exchange settlement proposals prior to the conference.
5. The settlement proposal that the party believes would be fair.
6. The settlement proposal that the party would be willing to make in order to conclude the matter at this time.

Each memorandum shall be sealed, held in confidence by the court and returned to the party at the conclusion of mediation. The memoranda shall be submitted to the Clerk's Office of the United States District Court, 1550 Main Street, Springfield, Massachusetts.

In the event any party believes the case is not ripe for mediation, please notify other counsel and the court as soon as possible.

IT IS SO ORDERED.

DATED: January 9, 2007

/s/ Kenneth P. Neiman
KENNETH P. NEIMAN
Chief Magistrate Judge